

REMARKS

A reconsideration of the above-identified application is respectfully requested in view of the foregoing amendments and following discussion.

Claims 2, 6-11, 16 and 20 have been amended to remove excessive use of the word "and". This is no more than a redundancy of the term and in no way should it interfere with allowability of the respective claims. In fact, the term was present in the previously allowed claims 6, 11, 16 and 20 without comment.

It has been duly noted that the Examiner's Action was made Final, even though claims 6, 11, 16-18, 20-25, inclusive, were indicated as allowed. Further, new grounds for continued rejection of claims 2-5, 7 and 8 were set forth by the Examiner. These claims are now rejected under 35 U.S.C. 102(e) as being anticipated by Stanners et al. U.S. Patent No. 5,330,440. Stanners had been previously cited by the Examiner in her PTO Form-892 filed with her action of 12 January 2004. This is the first discussion of Stanners that appears in the file. It is firmly believed that a Final Rejection should be withdrawn under the provisions of MPEP §706.07(e). Further, an amendment to rejected claim 2 is herein submitted to place the case in condition for allowance. Although the Examiner has set forth Stanners as anticipating claims 2-5, 7 and 8 (claims 3-5, 7 and 8 being dependent from claim 2), it is not apparent to Applicant, nor his Attorney, that Stanners in any manner discloses the critical aspects of generic claim 2, as argued by the Examiner. Even prior to making the amendments to claim 2 as indicated herein, the claims set forth a "protrusion" which was adapted to pierce the diaphragm of the cartridge. There is no such protrusion shown in Stanners. In fact, Stanners utilizes the innermost end of the hollow needle to pierce a membrane 12, but this has some use limitations. As claimed in Applicant's claim 2, the protrusion is separate from the needle, and claim 2 now includes an amendment which emphasizes this fact, i.e. "said needle having its innermost end axially spaced from said protrusion." It is possible that the hollow needle 15 of Stanners could become

plugged with a fragment of material forming the membrane 12, whereas any fragments that might be formed by the Applicant's separate protrusion will fall outside of the needle and in no way interfere with the flow of fluid through the needle. It is believed that claim 2, as currently amended, clearly calls for a separation of the protrusion from the innermost end of the needle, which arrangement was always present in claim 2, though not as specifically set forth as the claim as presently amended. In view of the amendment and the discussion set forth above, it is respectfully requested that claim 2 be passed to allowance.

It is further requested that claim 4 be reexamined and passed to allowance, since claim 4 depends from what is to be considered to be allowable claim 2 and introduces elements not present in the 102(e) reference of Stanners et al. Claim 4 has been amended to include the material of claim 5 (now cancelled) and to define the breakaway feature to be specifically set forth as "a peripherally scored groove located intermediate the ends of said plunger". Certainly this is a configuration that in no way anticipated by Stanners. Stanners utilizes a conventional threaded arrangement between the "female threads 16b which mate with male threads 10c of head 10". This results in the separation step of Figure 14j, but requires a relatively cumbersome manual unscrewing operation as described in connection with Figures 14a to 14j. The operation description is set forth at column 8 beginning at line 43. It will be apparent that a simple breaking of a scored line is much simpler to achieve than unscrewing a thread which could have been frozen because of continued operation of the device. It is now believed that the Examiner will find amended claim 4 (including the material of cancelled claim 5) in condition for allowance.

Withdrawal of the Final Action is respectfully requested. Allowance of amended claims 2 and 4, along with previous allowed claims 6, 11, 16 - 18, inclusive, 20 - 22, inclusive, 24 and 25, is also respectfully requested.

Respectfully Submitted,

By



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